

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7651 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

K P NAYAK

Versus

STATE OF GUJARAT

Appearance:

MR IS SUPEHIA for Petitioner

Mr. V.B.Gharania, AGP for the Respondents.

CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 12/02/99

ORAL JUDGEMENT

This petition has been filed for quashing the orders dated 29.10.88 and 15.2.89 directing the Government not to revise the original fixation of his pay and restore the salary of the petitioner as if the salary has not been refixed in the selection grade and for a direction restraining the respondents and their servants, agents from recovering any amount of excess payment made

to the petitioner on account of grant of selection grade to him with effect from 1.7.79.

2. The petitioner was appointed as Stenographer grade II in Panchayat and Health Department, Sachivalaya, Ahmedabad with effect from 5.10.66. At present, he is working as Gujarati Stenographer in the Narmada and Water Resources Department, Government of Gujarat, Gandhinagar. The petitioner was granted selection grade by an order dated 20th July, 1982 with [effect from 1.7.79, but that order has been withdrawn by the impugned order with retrospective effect as if no selection grade was given.

3. The learned counsel for the petitioner submitted that the impugned order has been passed against the petitioner withdrawing selection grade which was given in the year 1979 without giving an opportunity of hearing. Thus, the impugned orders are violative of principles of natural justice, and hence not sustainable in the eye of law. The learned counsel further submitted that the impugned orders be quashed and the department be directed to re-consider and decide the selection grade in accordance with law, after giving an opportunity of hearing to the petitioner.

4. In the facts and circumstances, this petition is allowed. The impugned orders dated 29.10.88 are quashed and the authority is directed to re-consider and take a decision about selection grade of the petitioner which was granted to him by an order dated 20.7.82 with effect from 1.1.79 in accordance with law by a speaking order within a period of two months from the date of presentation of the certified copy of this judgment, after giving a reasonable opportunity of hearing to the petitioner. Rule is made absolute accordingly with no order as to costs. Interim relief already granted earlier shall continue till the appropriate authority takes a decision. The appropriate authority shall communicate its decision to the petitioner within a week from the date thereof by a registered post A.D.

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